

Exhibit 21

From: [Mumm, Laura C.](#)
To: [Matthew Melamed](#); [Daniel B. Garrie](#); [Gail Andler](#); [Daniel Garrie](#)
Cc: [Snyder, Orin](#); [Stein, Deborah L.](#); [Falconer, Russ](#); [Kutscher Clark, Martie](#); [Lesley Weaver](#); [Anne Davis](#); [Derek Loeser](#); [Cari Laufenberg](#); [David Ko](#); [Benjamin Gould](#); [Chris Springer](#)
Subject: RE: In re Facebook - Extension Request
Date: September 16, 2021 2:41:35 PM

Counsel,

Thank you for your letter regarding data relating to the Named Plaintiffs. We are confused by some of the positions Plaintiffs articulate in the letter and seek clarification before we respond in full. The source of our confusion is that Plaintiffs' letter appears to be demanding that Facebook produce "all data it has collected" about the Named Plaintiffs, which goes well beyond what Plaintiffs have repeatedly told the Court they were seeking.

When the parties previously briefed the question of what user data was responsive to Plaintiffs' requests and relevant to Plaintiffs' claims, Plaintiffs assured the Court:

Plaintiffs do not demand, as Facebook repeatedly claims, 'that Facebook search *millions* of disaggregated data sets for any data to have ever crossed Facebook's systems relating to a Named Plaintiff and any derivative materials drawing on that data - such as data sets tracking hours of peak user activity to monitor strains on Facebook's system.' . . . To the contrary, Plaintiffs seek only a holding that the sensitive data Facebook collected about *ten Named Plaintiffs* and *shared* with third parties is relevant. **Plaintiffs do not contend that information that was not shared is relevant, which substantially narrows the information Facebook would be required to produce in this case.**

Dkt. 548 at 9 (emphasis added).

Plaintiffs told the Court repeatedly in their briefing that only data Facebook shared or made accessible to third parties was potentially relevant.

- "To be clear, Plaintiffs are not interested in every piece of data Facebook collected from and about them. Instead, for just ten Named Plaintiffs, Plaintiffs respectfully request that the Court rule that the sensitive information from and about them that Facebook shared with or made accessible to third parties is relevant to this action." *Id.* at 2 (emphasis added).
- "This discovery dispute concerns sensitive user information that Facebook has shared with third parties without users' consent." (Dkt. 548 at 1.)
- "[T]his case is about whether Facebook acted unlawfully in making sensitive user information available to third parties and in failing to do anything meaningful to prevent third parties from misusing the information they obtained." (*Id.*)
- "Regardless of the source or how Facebook acquired it, sensitive user information is relevant if Facebook shared it without users' consent." (*Id.* at 2.)

- “[T]he discovery Plaintiffs seek [is] . . . exactly what information about these ten plaintiffs Facebook possesses and shared with third parties.” (*Id.* at 3.)
- “Facebook’s improper sharing of user information, whether that information was derived from on- and off-platform activity or obtained from off the platform, is relevant to the legal theories upheld at the pleading stage, which turn not on how or where the information was originally generated, but on what kind of information it was and whether Facebook shared it with third parties.” (*Id.* at 3-4.)
- “[A]ny sensitive information that Facebook shared with or made accessible to third parties is relevant here, regardless of its source.” (*Id.* at 5.)
- “Even for the claims that do involve a reasonable expectation of privacy, such as the invasion-of-privacy torts under California law, Plaintiffs do not claim that *all* off-platform information is relevant. Information would be relevant if—like Plaintiffs’ on-platform activity—it was shared only with a ‘limited audience.’ . . . Such sharing would be improper under the Order’s reasoning without raising any new issues.” (*Id.* at 5.)
- “To show that data was shared beyond the scope of users’ consent, Plaintiffs need to understand *what* was shared. Indeed, at trial, how can Plaintiffs point to data that was shared without their consent if Facebook has not produced it?” (*Id.* at 5.)

Moreover, in a hearing with Judge Corley, Mr. Loeser affirmed that Plaintiffs are only interested in information that was “shared [with] or made accessible” to third parties. 12/9/20 Hr’g Tr. at 18:15-16.

Please confirm whether Plaintiffs are still only seeking data that was shared with or made accessible to third parties, consistent with the position they took before Judge Corley. If Plaintiffs’ request has expanded to include data that was *not* shared with or made accessible to third parties, please explain Plaintiffs’ basis for taking a position directly at odds with the one they presented to the Court in October 2020 and on which the Court relied in issuing Discovery Order Number 9.

Regards,

Laura

Laura C. Mumm

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From: Matthew Melamed <mmelamed@bfalaw.com>

Sent: Friday, September 10, 2021 11:16 PM

To: Daniel B. Garrie <Daniel@lawandforensics.com>; Gail Andler <JudgeAndler@iCloud.com>; Daniel

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[WARNING: External Email]

Counsel:

Attached is a letter specifying the named plaintiffs' data Plaintiffs seek from Facebook.

Thanks,
Matt

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From: Daniel B. Garrie <Daniel@lawandforensics.com>

Sent: Friday, September 10, 2021 11:08 AM

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Me neither.

Daniel

From: Gail Andler <JudgeAndler@iCloud.com>

Sent: Friday, September 10, 2021 1:12 PM

To: Matthew Melamed <mmelamed@bfalaw.com>; Daniel Garrie <DGarrie@jamsadr.com>; Daniel B. Garrie <Daniel@lawandforensics.com>

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I have no problem with that.

Gail Andler



Hon. Gail Andler (Ret.)

Arbitrator/Mediator/Special Master
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From: Matthew Melamed <mmelamed@bfalaw.com>

Date: Friday, September 10, 2021 at 10:11 AM

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Judge Andler and Mr. Garrie:

Plaintiffs said yesterday we would send an email by noon today about the named plaintiffs' data we seek from Facebook. We ask for a brief extension, until the end of the day, to send the email.

Thank you,
Matt

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